

Michigan Department of Civil Service

# REGULATION

<b>Appointing Authority Letter Reference:</b>  CS- <del>6885</del>	<b>Effective Date:</b>  <del>August 19, 1998</del> <u>August 20, 2000</u>	<b>Index Reference:</b>  Regulations	<b>Regulation Number:</b>  <b>1.01</b>
<b>Issuing Bureau:</b>  Executive	<b>Rule Reference:</b>  Rule <del>2-13.51-3</del> ( <del>Implementation of Rules</del> <u>Regulations</u> )		<b>Replaces:</b>  Reg. 1.01 ( <del>Aug. 24, 1997, CS- 6859</del> <u>August 19, 1998, CS-6885</u> )
<b>Subject:</b>  <b>ISSUANCE OF CIVIL SERVICE REGULATIONS</b>			

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## 1. PURPOSE

**101. — Authority.** This regulation is issued by the state personnel director pursuant to authority granted in article 11, section 5, of the Michigan constitution and in civil service commission rules, including, but not limited to, rules ~~2-4.2, 2-13.51-3, 3-2.33-1.3, 3-32.1, 3-4.6(b), 4-1.6, 4-6.9, and 6-13.1~~6-12.1 and 7-8.

**102. — Purpose.** The purposes of this regulation are: (1) to define basic terms (**rule**, **regulation**, and **advisory**) and (2) to prescribe a procedure for issuing regulations of the department of civil service.

## 2. CIVIL SERVICE COMMISSION RULE REFERENCE

**A. 1-3. Regulations.** The state personnel director is authorized to issue regulations that the director deems to be necessary or useful. A regulation issued by the state personnel director shall be binding on the department of civil service unless the commission finds that the regulation violates a rule. The state personnel director shall make all regulations available to employees through their personnel offices and the internet.

### 3. Section 200—DEFINITIONS

**201. Definitions in Rules; Applicability.**—The definitions contained in the civil service commission rules shall apply to these regulations, unless the context of the regulation is unambiguously to the contrary.

#### A. Civil Service Commission Rule Definitions:

1. ~~204.~~ **Regulation** means a ~~statement of general applicability~~ formal, general written enactment issued by the state personnel director that: (1) exercises, implements, or applies powers ~~authorized by~~ granted in article 11, section 5, of the ~~Michigan~~ constitution; (2) exercises, implements, or applies legislative powers ~~authorized~~ granted by rule; or (3) prescribes the procedures or practice of the department of civil service. ~~A regulation is binding on the department of civil service, the office of the state employer, appointing authorities, classified employees, and recognized labor organizations, unless a court of competent jurisdiction or the civil service commission determines that the regulation is unconstitutional, contrary to law, or contrary to the rules.~~ A regulation does not include the following:
  - a. A determination, decision, or order in a contested case, technical appeal, or individual labor relations matter.
  - b. A determination, declaratory ruling, order, or other disposition by the state personnel director of a particular matter as applied to a specific set of facts.
  - ~~(c) An interagency or intra-agency memorandum, directive, or communication that does not affect the rights of, or procedures and practices available to, the public.~~
  - c. A personnel or administrative action by the state personnel director.
  - d. A form with instructions, an interpretive statement, an informational pamphlet, or other material that in itself does not have the force and effect of a regulation but is merely explanatory.
  - e. An advisory ~~issued by the civil service commission or the department of civil service.~~

#### **B. Additional Definition(s) As Used In This Regulation:**

1. ~~202.~~ **Advisory** means an explanatory statement or policy statement issued by the commission or department of civil service to provide future direction, clarification, or other necessary or useful information. An advisory does not have the force and effect of law and is not binding.

2. ~~203.~~ **Contested case** means a proceeding in which a determination of the legal rights, duties, or privileges of a named party is required by the constitution or rule to be made by the civil service commission or department of civil service after an opportunity for an evidentiary hearing. Contested case includes the following:
- a. A grievance by a classified employee alleging a violation of a rule or regulation by an appointing authority that has been timely filed with the employer and timely appealed to the department of civil service.
  - b. An unfair labor practice charge that has been timely filed.
3. ~~205.~~ **Rule** means a statement of general applicability approved by the civil service commission that (1) exercises, implements, or applies powers authorized by article 11, section 5, of the Michigan Constitution, or (2) prescribes the procedures or practice of the department of civil service. A rule has the force and effect of law unless a court of competent jurisdiction determines that the rule is unconstitutional or otherwise contrary to law. A rule does not include the following:
- a. General statements of principles or policy approved by the commission that do not have the force and effect of law and which are not intended to be rules.
  - b. A determination, decision, or order in a contested case.
  - c. An interagency or intradepartment, memorandum, directive, or communication that does not affect the rights of, or procedures and practices available to, the public.
  - d. A form with instructions, an interpretive statement, an informational pamphlet, or other material which in itself does not have the force and effect of law but is merely explanatory.
  - e. A declaratory ruling or other disposition of a particular matter as applied to a specific set of facts involved.
  - f. A regulation.
  - g. An advisory.
  - h. A personnel or administrative action by the civil service commission.

#### 4. Section 300 — **ISSUANCE OF REGULATIONS**

- A. ~~301.~~ — **Notice of Proposed Regulation:** The state personnel director shall give public notice of any proposed regulation or material amendment to a regulation. Notice shall be given to the civil service commission, the office of the state employer, appointing authorities, and recognized employee organizations, at least ~~fourteen~~ (14) days before the

proposed effective date. Any interested person may request a copy of the proposed regulation and may comment in writing on the proposal.

**302. B. Issuance of Regulation; Effective Date.** After review of any comments, the state personnel director may issue the regulation as proposed or as revised. A regulation is issued when the regulation has been approved by the state personnel director and published by the department of civil service. The regulation shall be effective on the date issued or any later date authorized by the state personnel director.

**303. C. Emergency Regulation.** If the state personnel director determines that the efficient and orderly administration of the classified service requires issuance of a regulation without the notice required in regulation 1.01, §4A, the state personnel director may immediately issue such regulation without prior public notice or opportunity for comment.

**304. D. Notice to Commission.** The state personnel director shall place on the agenda of the civil service commission a notice of each regulation issued since the last meeting. Commission action is not required. However, the commission may act to amend or repeal a regulation at any time without notice.

**305. E. Publication of Regulations.** The state personnel director shall number, organize, compile, certify, and publish all regulations. The regulations shall be provided to the office of the state employer, all appointing authorities, and all employee organizations. Appointing authorities shall make all civil service rules and regulations available to classified employees. The regulations shall be available to the public and may be published in electronic form.

**306. F. Severability.** Each provision of these regulations is severable. Therefore, if a court of competent jurisdiction or the civil service commission finds that any provision of a regulation is invalid or unenforceable, every other provision not found invalid or unenforceable shall remain valid and enforceable.

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*[End of Regulation 1.01]*